

JUDGE DANIELS**14 CV 8077**

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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK**

RHINESTONE JEWELRY CORPORATION,

Plaintiff,

x

:

No.

-against-

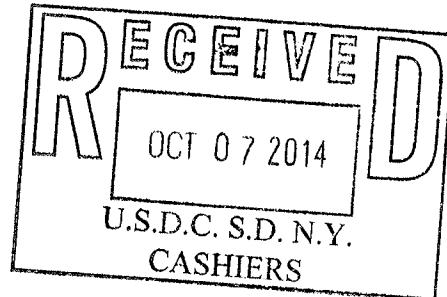
ALABAMA WHOLESALE CROWNS, LLC, KAYLA
 BROOKE KIRKLAND CAMPOS, and JOHN DOES 1-10

:

:

Defendants.

x



COMPLAINT

Plaintiff Rhinestone Jewelry Corporation, by its attorneys, Cowan, Liebowitz & Latman, P.C., for its Complaint against Defendants Alabama Wholesale Crowns, LLC, Kayla Brooke Kirkland Campos, and John Does 1-10, alleges:

NATURE OF THE ACTION

1. This is a civil action for copyright infringement in violation of the Copyright Act, 17 U.S.C. § 101 *et seq.*

PARTIES

2. Plaintiff Rhinestone Jewelry Corporation (“Rhinestone”) is a New York corporation with its principal place of business at 2028 McDonald Avenue, Brooklyn, New York 11223.

3. Since 1991, Rhinestone, a family-owned company, has been engaged in the business of designing, creating, and selling costume jewelry, including tiaras, crowns and pageant jewelry.

4. Upon information and belief, Defendant Alabama Wholesale Crowns, LLC (“AWC”) is an Alabama limited liability company with its principal place of business at 752 Waverly Hills Road, Grant, Alabama 35747.

5. Upon information and belief, Defendant Kayla Brooke Kirkland Campos is the sole manager and organizer of AWC, and is a moving, active and conscious force behind AWC.

6. Upon information and belief, Defendants John Does 1-10 are individuals who have engaged and participated, directly or contributorily, in the unlawful acts set forth herein. The true identities of Defendants John Does 1-10 are not presently known to Rhinestone. Rhinestone will amend its complaint upon discovery of the identities of such Defendants.

7. Upon information and belief, Defendants are engaged in the business of importing, selling and distributing costume jewelry including crowns, tiaras, and bridal/pageant jewelry.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

9. This Court has personal jurisdiction over Defendants because, on information and belief, Defendants, in person or through an agent

(a) have transacted business, and/or have contracted to supply goods, in New York, including through highly interactive websites located at

http://alabamawholesalecrowns.com and http://shop.alabamawholesalecrowns.com, on which merchandise is offered for sale to New York consumers; and/or

(b) (i) have committed the infringing acts described herein, causing injury to Rhinestone in New York, and (ii) expect or reasonably should expect their infringing acts to have consequences in New York, and (iii) derive substantial revenue from interstate or international commerce.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331(b) and (c).

RHINESTONE'S COPYRIGHTED JEWELRY DESIGNS

11. Rhinestone products are widely sold and advertised throughout the United States.

12. Rhinestone's business is built on its original jewelry designs, which are created in-house by Rhinestone's employees at substantial expense, in an ongoing effort to appeal to existing and potential customers in the highly competitive costume and pageant jewelry industry.

Rhinestone Jewelry Design No. 12562

13. In 2004, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 12562, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 12562.

14. Rhinestone Jewelry Design No. 12562 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-638-811, with an effective date of March 17, 2008.

Rhinestone Jewelry Design No. 12564

15. In 2004, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 12564, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 12564.

16. Rhinestone Jewelry Design No. 12564 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-638-811, with an effective date of March 17, 2008.

Rhinestone Jewelry Design No. 15143

17. In 2009, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 15143, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 15143.

18. Rhinestone Jewelry Design No. 15143 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VAu 998-995, with an effective date of August 26, 2009.

Rhinestone Jewelry Design No. 12615

19. In 2004, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 12615, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 12615.

20. Rhinestone Jewelry Design No. 12615 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-665-148, with an effective date of March 16, 2009.

Rhinestone Jewelry Design No. 12620

21. In 2004, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 12620, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 12620.

22. Rhinestone Jewelry Design No. 12620 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-665-148, with an effective date of March 16, 2009.

Rhinestone Jewelry Design No. 12622

23. In 2004, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 12622, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 12622.

24. Rhinestone Jewelry Design No. 12622 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-665-148, with an effective date of March 16, 2009.

Rhinestone Jewelry Design No. 12623

25. In 2004, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 12623, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 12623.

26. Rhinestone Jewelry Design No. 12623 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-665-148, with an effective date of March 16, 2009.

Rhinestone Jewelry Design No. 12737

27. In 2003, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 12737, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 12737.

28. Rhinestone Jewelry Design No. 12737 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-638-812, with an effective date of March 17, 2008.

Rhinestone Jewelry Design No. 13131

29. In 2005, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 13131, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 13131.

30. Rhinestone Jewelry Design No. 13131 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-871-341, with an effective date of July 30, 2013.

Rhinestone Jewelry Design No. 13372

31. In 2005, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 13372, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 13372.

32. Rhinestone Jewelry Design No. 13372 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-648-059, with an effective date of September 17, 2008.

Rhinestone Jewelry Design No. 15139/15138

33. In 2009, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 15139/15138, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 15139/15138.

34. Rhinestone Jewelry Design No. 15139/15138 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VAu 998-995, with an effective date of August 26, 2009.

Rhinestone Jewelry Design No. 15466

35. In 2010, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 15466, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 15466.

36. Rhinestone Jewelry Design No. 15466 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-742-642, with an effective date of October 8, 2010.

RJC Jewelry Design No. 15201

37. In 2009, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 15201, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 15201.

38. Rhinestone Jewelry Design No. 15201 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VAu 998-999, with an effective date of August 26, 2009.

Rhinestone Jewelry Design No. 10970

39. In 2002, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 10970, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 10970.

40. Rhinestone Jewelry Design No. 10970 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-389-837, with an effective date of November 29, 2006.

Rhinestone Jewelry Design No. 13369

41. In 2005, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 13369, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 13369.

42. Rhinestone Jewelry Design No. 13369 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-648-059, with an effective date of September 17, 2008.

Rhinestone Jewelry Design No. 13565

43. In 2006, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 13565, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 13565.

44. Rhinestone Jewelry Design No. 13565 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-401-102, with an effective date of February 21, 2007.

Rhinestone Jewelry Design No. 13701/16033

45. In 2005, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 13701.

46. Rhinestone Jewelry Design No. 13701 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-742-645, with an effective date of October 8, 2010.

47. In 2010, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 16033, which incorporates Jewelry Design No. 13701, and adds to it new jewelry design elements.

48. Rhinestone Jewelry Design No. 16033 is the subject of U.S. Copyright Application No. 1-1666997379, currently pending in the Copyright Office.

Rhinestone Jewelry Design No. 15203

49. In 2009, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 15203, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 15203.

50. Rhinestone Jewelry Design No. 15203 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VAu 998-999, with an effective date of August 26, 2009.

Rhinestone Jewelry Design No. 15899

51. In 2008, Rhinestone's in-house designer created an original jewelry design designated as Jewelry Design No. 15899, and in the same year Rhinestone began to sell and distribute jewelry products in Jewelry Design No. 15899.

52. Rhinestone Jewelry Design No. 15899 is registered in Rhinestone's name at the United States Copyright Office under Registration No. VA 1-896-142, with an effective date of January 13, 2014.

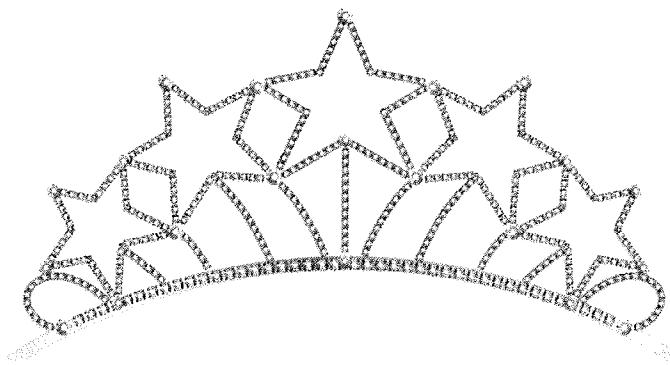
DEFENDANTS' INFRINGEMENTS

53. Upon information and belief, Defendants have promoted, advertised, sold and distributed, through their websites <http://alabamawholesalecrowns.com> and <http://shop.alabamawholesalecrowns.com>, jewelry products bearing designs that are copied from and substantially similar to the above-described copyrighted designs (the "Rhinestone Designs"):

(a) A product designated as "Enchanting Star":



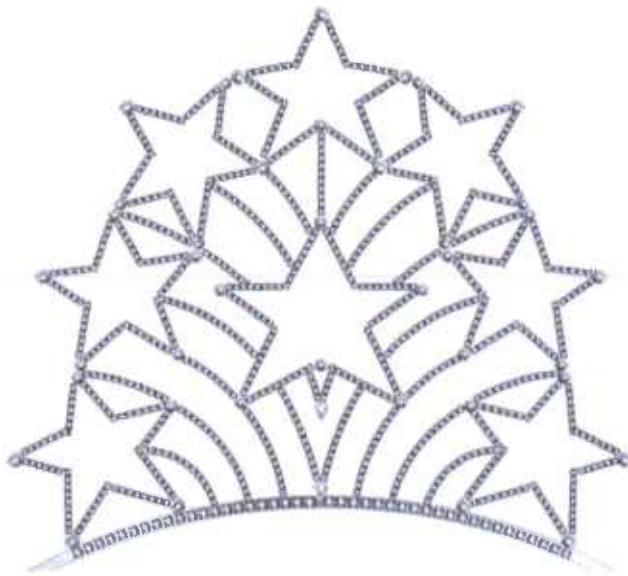
that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 12562:



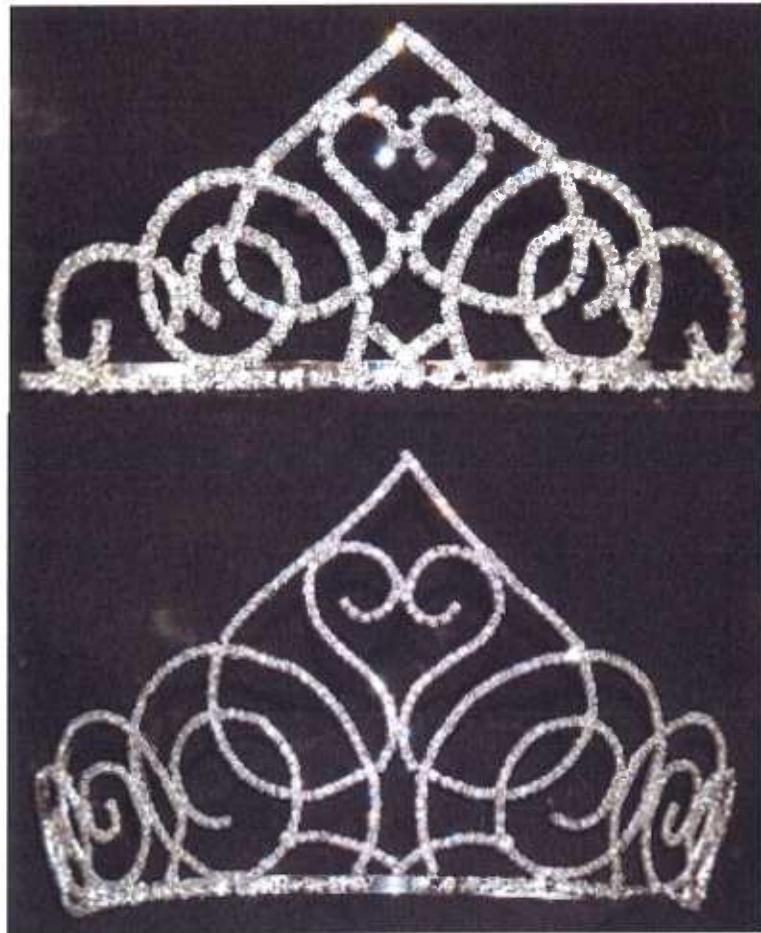
(b) A product designated as "Jessa – Patriotic":



that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 12564:



(c) Products designated as "Jupiter Series:



that unlawfully bear, and infringe Rhinestone's registered copyright in, Jewelry Design No. 15143:



(d) Products designated as "Triple Loop Scepter" and "Deluxe Triple Loop Scepter":



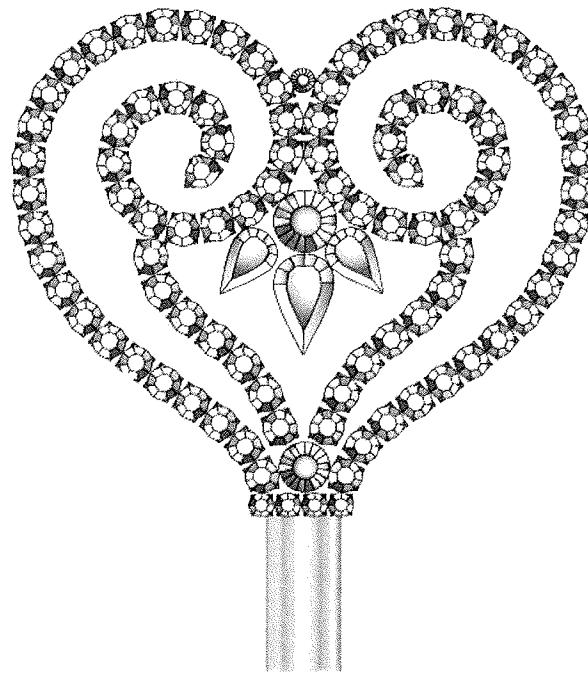
that unlawfully bear, and infringe Rhinestone's registered copyright in, Jewelry Design No. 12615:



(e) A product designated as "Economy Decorated Heart Scepter"



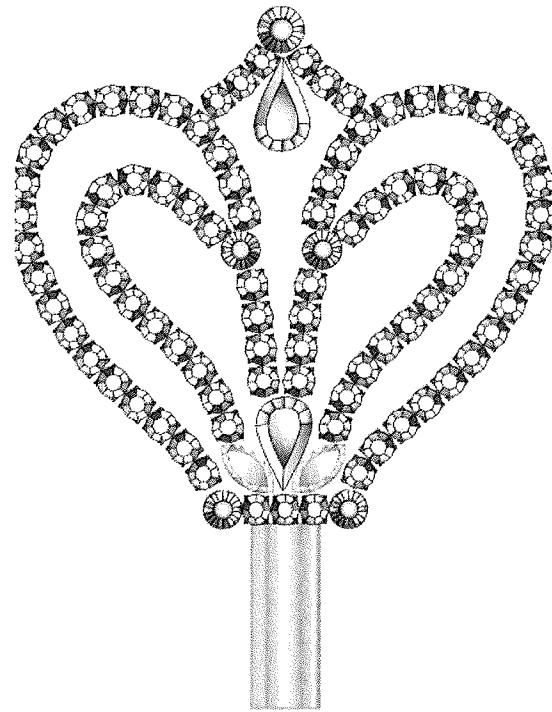
that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 12620:



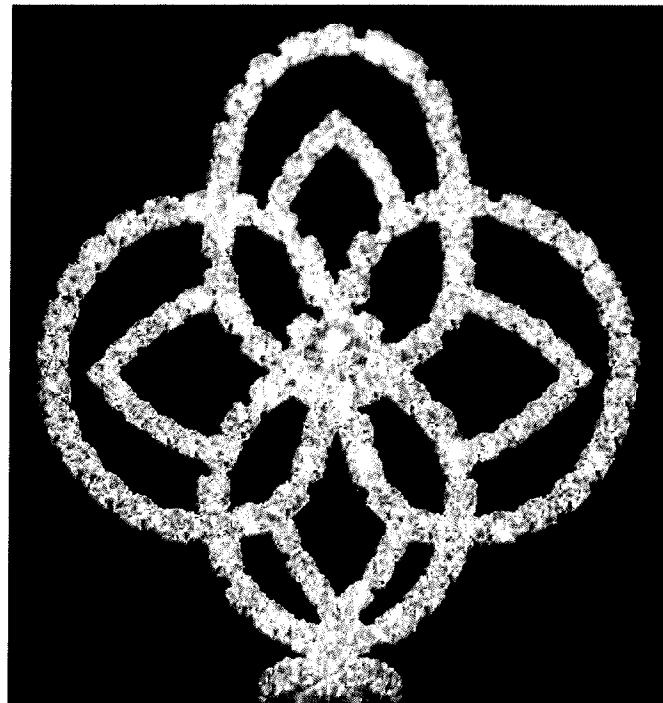
(f) A product designated as "Deluxe Double Heart Scepter":



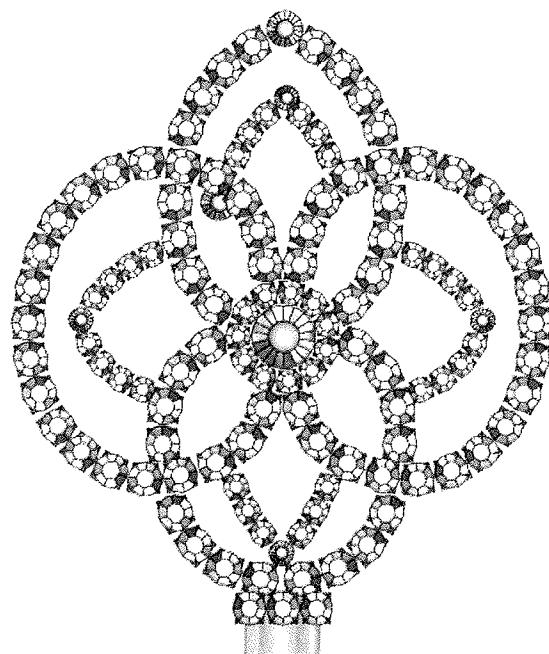
that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 12622:



(g) A product designated as “Four Point Flower Scepter – Economy”:



that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 12623:



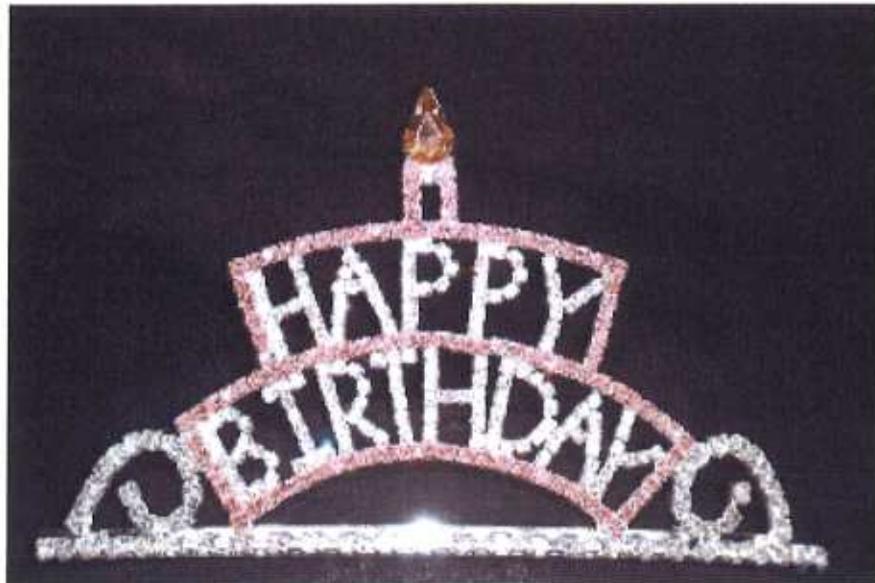
(h) A product designated as "French Quarter":



that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 12737:

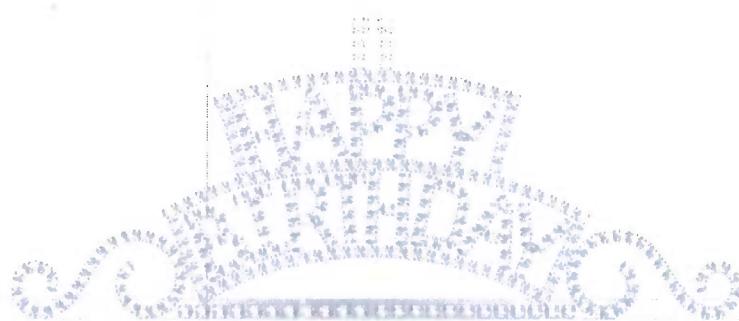


(i) A product designated as "Happy Birthday":



that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design

No. 13131:



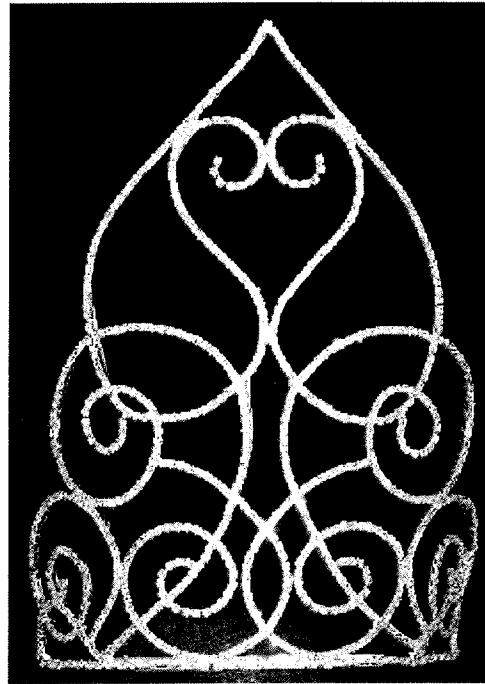
(j) Products designated as "Round Victory Fleur de Lis" with various color designations:



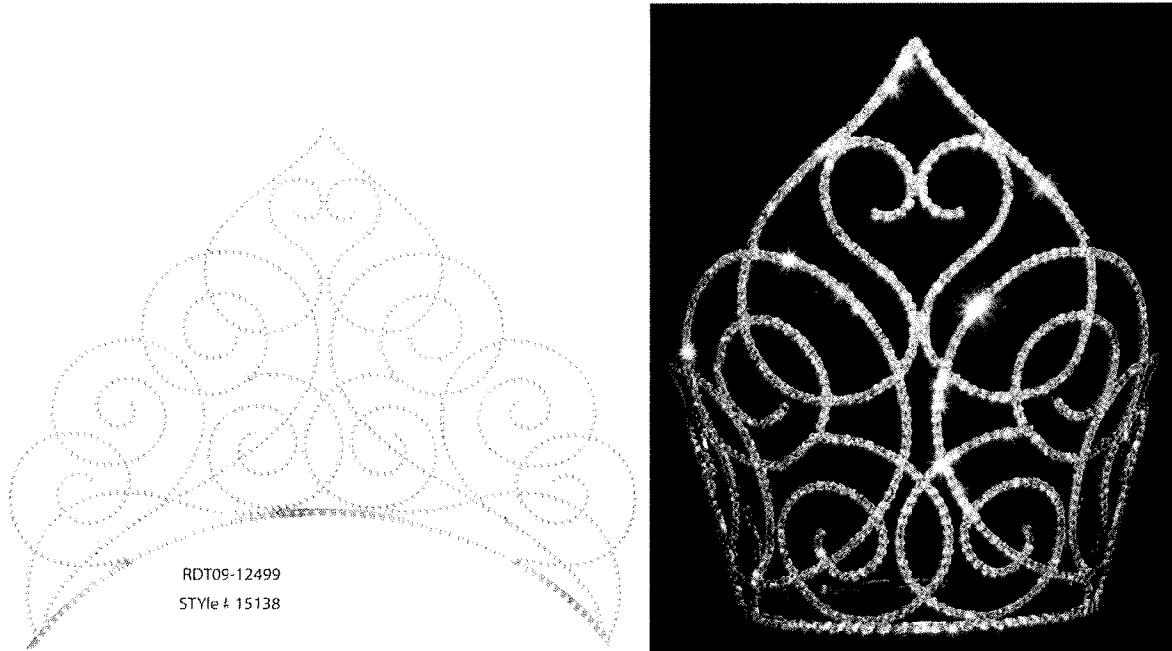
that unlawfully bear, and infringe Rhinestone's registered copyright in, Rhinestone Jewelry Design No. 13372:



(k) A product designated as "The Gigi":



that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 15139/15138:



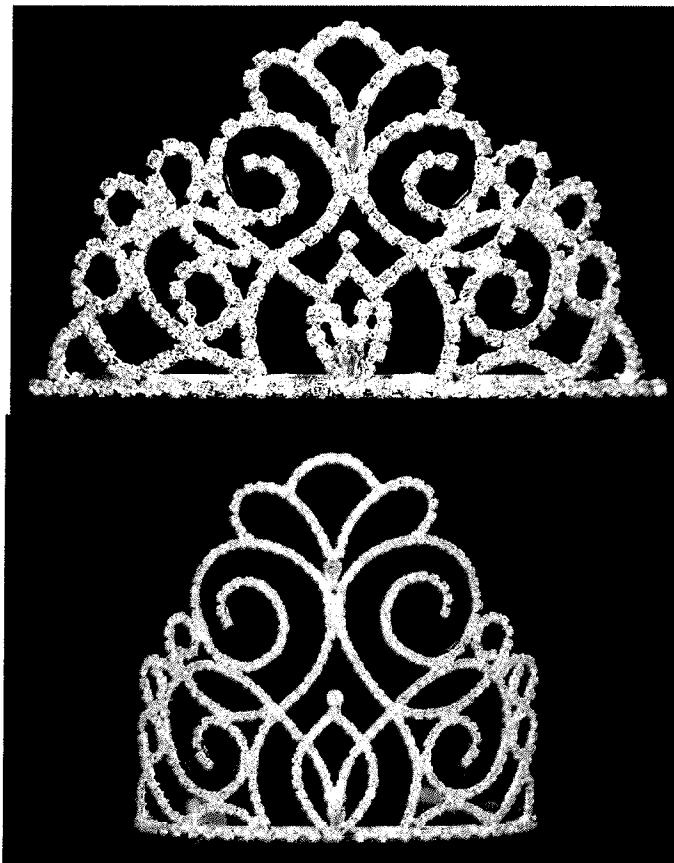
(1) A product designated as "The Verona":



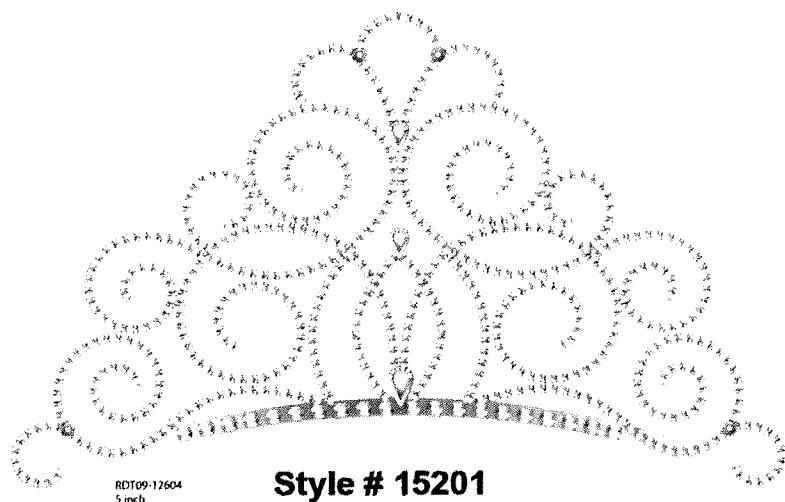
that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 15466:



(m) Products designated as "The Valent":



that unlawfully bear, and infringe Rhinestone's registered copyright in, Jewelry Design No 15201:



(n) A product designated as "The Solid Ghost":



that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 10970:



(o) A product designated as "The Kathy":



that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 13369:



(p) Products designated as "The Rosalind CAB":



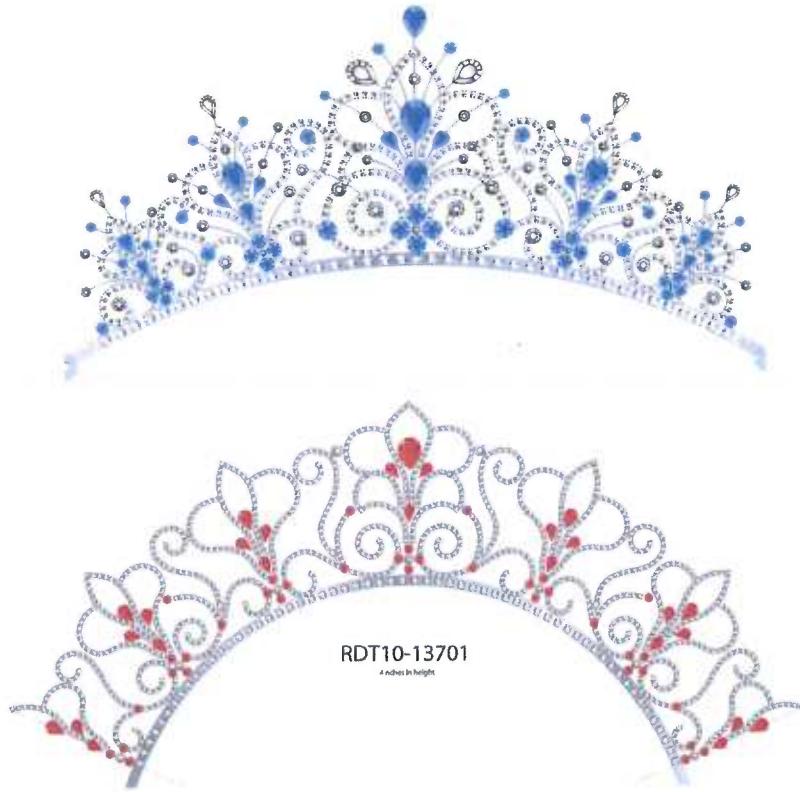
that unlawfully bear, and infringe Rhinestone's registered copyright in, Jewelry Design No. 13565:



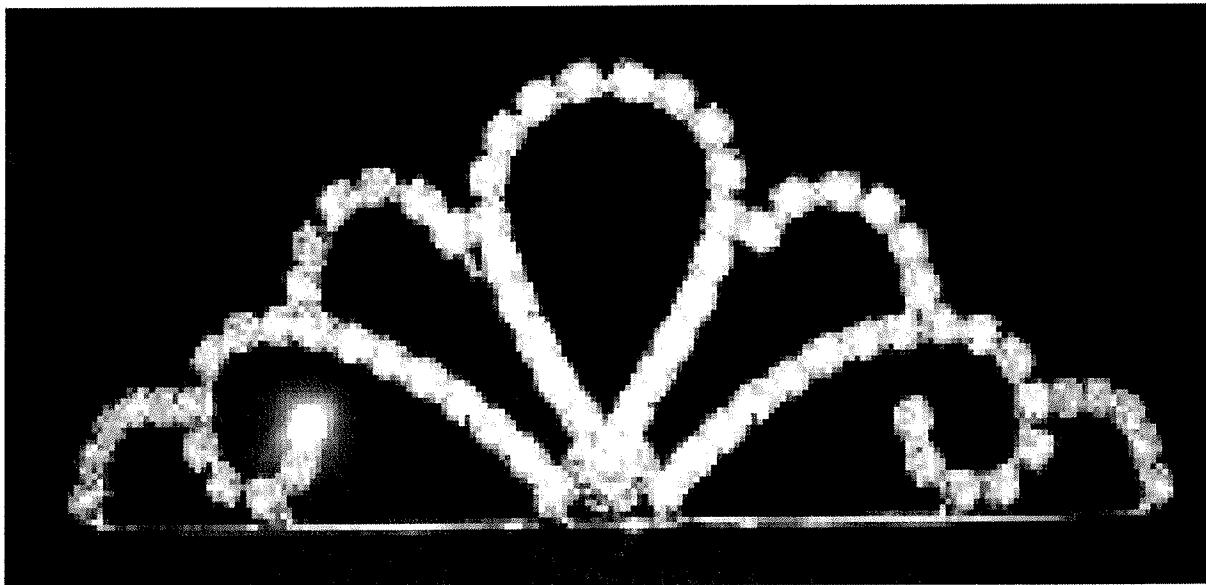
(q) Products designated as "Teagan" and "Braddox":



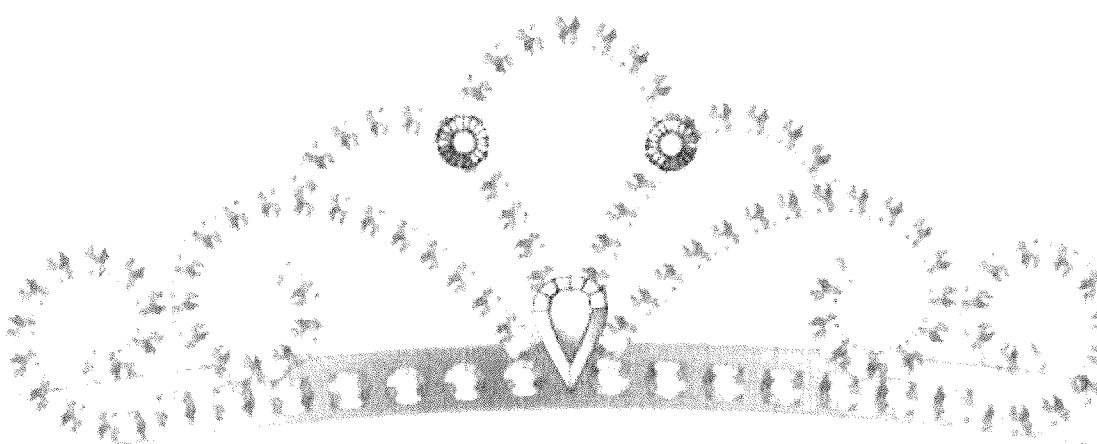
that unlawfully bear, and infringe Rhinestone's copyright in, Jewelry Design Nos. 13701 and 16033:



(r) A product designated as "The Jaden":



that unlawfully bears, and infringes Rhinestone's registered copyright in, Jewelry Design No. 15203:



(s) Products designated as "Rosalind":



that unlawfully bear, and infringe Rhinestone's registered copyright in, Jewelry Design No. 15899:



54. The acts of Defendants described above were committed without the permission, license or consent of Rhinestone.

55. Upon information and belief, the acts of Defendants described above were committed with knowledge or in reckless disregard of Rhinestone's exclusive rights in the Rhinestone Designs.

**CLAIM FOR RELIEF
(Copyright Infringement)**

56. Rhinestone repeats and realleges the assertions contained in paragraphs 1 through 55 above.

57. Rhinestone is the author of, and sole proprietor of all right, title and interest in and to the copyrights in, each of the Rhinestone Designs. Under 17 U.S.C. § 106, Rhinestone has the exclusive right to reproduce, import, distribute, publicly display and prepare derivative works based on the Rhinestone Designs.

58. As alleged above, Defendants have infringed the copyrights in each of the Rhinestone Designs by unlawfully importing or causing to be imported, publicly displaying, and promoting, selling and distributing products bearing designs that are copied from, and substantially similar to protected expression in, the Rhinestone Designs.

59. Defendants' infringements were willful in that they were committed with knowledge or in reckless disregard of Rhinestone's exclusive rights in the Rhinestone Designs

60. Rhinestone is entitled to recover from Defendants its actual damages as well as the profits of Defendants attributable to each of the infringements and not taken into account in computing actual damages, pursuant to 17 U.S.C. § 504(b); or, at Rhinestone's election, an award of statutory damages pursuant to 17 U.S.C. § 504(c) with respect to each of the Rhinestone Designs infringed by Defendants that was registered prior to the commencement of Defendants' infringements under 17 U.S.C. § 412.

61. Rhinestone is also entitled to recover its costs and attorneys' fees from Defendants pursuant to 17 U.S.C. § 505.

62. As a result of Defendants' copyright infringements, Rhinestone has suffered, and will continue to suffer, irreparable injury not fully compensable in monetary damages, and is therefore entitled to an injunction enjoining Defendants from engaging in their infringing activities.

WHEREFORE, Rhinestone prays that the Court:

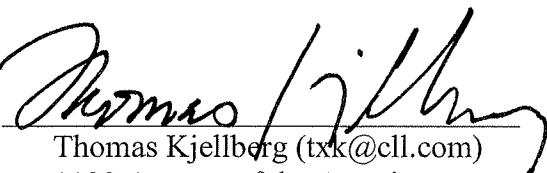
1. Find that Defendants have willfully infringed Rhinestone's copyrights in the Rhinestone Designs;
2. Preliminarily and permanently enjoin Defendants, their officers, agents, employees, and related companies, and all persons acting for, with, by, through, or under them, from manufacturing, copying, reproducing, importing, distributing, advertising, promoting, offering for sale or selling products or articles bearing any design identical or substantially similar to any Rhinestone Design;
3. Order the impoundment and destruction of the infringing products under 17 U.S.C. § 503;
4. (a) Award to Rhinestone, pursuant to 17 U.S.C. § 504(c), its actual damages incurred as a result of Defendants' acts of copyright infringement, and all profits Defendants realized as a result of such unlawful acts, in amounts to be determined at trial; or
(b) In the alternative, award to Rhinestone, at its election, statutory damages pursuant to 17 U.S.C. § 504(c);
5. Award to Rhinestone, pursuant to 17 U.S.C. § 505, its costs and attorneys' fees incurred as a result of Defendants' unlawful acts; and

6. Grant such other and further relief as the Court deems necessary and proper under the circumstances.

Dated: New York, New York
October 6, 2014

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

By: 
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